

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In Re:

Case No. 12-12020

RESIDENTIAL CAPITAL, LLC,

Chapter 7

Debtor.

NOTICE OF MOTION

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Upon the annexed affirmation of Jordan S. Katz, Esq., dated October 1, 2012, and the exhibits annexed thereto, Wells Fargo Delaware Trust Company, N.A., as trustee for Vericrest Opportunity Loan Trust 2011-NPL1 (hereinafter "Wells" or "Movant"), a secured creditor through Vericrest Financial, Inc., acting as servicer, ("Vericrest"), will move this court before the Hon. Martin Glenn, United States Bankruptcy Judge, on the 29th day of January, 2012 at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel may be heard, at the courthouse located at One Bowling Green, New York, NY 10004 for an order pursuant to §362(d) of the Bankruptcy Code modifying the automatic stay so that Wells, as secured creditor, can foreclose the mortgage it holds on the premises known as 1965 Jamie Drive, Findlay, OH 45840, on the grounds that (a) Wells is not adequately protected; (b) Debtor has little or no equity in said premises; (c) the Property is not necessary to the reorganization of the Debtor; and (d) for such other and further relief as this Court deems just and proper.

Dated: Melville, New York
October 1, 2012

KOZENY, McCUBBIN, & KATZ, LLP

/s/ Jordan S. Katz

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AFFIRMATION

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Jordan S. Katz, Esq. under penalty of perjury deposes and says:

1. I am the attorney for Wells Fargo Delaware Trust Company, N.A., as trustee for Vericrest Opportunity Loan Trust 2011-NPL1 (herein "Wells"), secured creditor through Vericrest Financial, Inc., acting as servicer, and am fully familiar with the facts and circumstances hereinafter set forth. Said information and belief being as a result solely of documentation provided to me by Vericrest. Any and all representations made by your affiant are based entirely upon said information. I submit this affirmation in support of Vericrest's notice of motion for an order pursuant to §362(d) of the Bankruptcy Code modifying the automatic stay so that Wells, as secured creditor, can recover possession of the premises known as 1965 Jamie Drive, Findlay, OH 45840, (the "Property"), for cause; and for such other and further relief as this Court deems just and proper. (A copy of the proposed order is annexed hereto as Exhibit "A".)

2. Residential Capital, LLC, filed a petition for relief under Chapter 11 of the U.S. Bankruptcy Code on or about May 14, 2012. On May 14, 2012 an Order directing Joint Administration of the Chapter 11 case of Residential Capital with 12-12032 was issued by this court.

3. Movant is the holder of a Promissory Note with Beth A. Beach with respect to real property described as 1965 Jamie Drive, Findlay, OH 45840. (A copy of the Note, Mortgage, and Assignment is annexed hereto as Exhibit "B".)

4. Beth A. Beach has failed, neglected and refused to comply with the provisions of the Note and Mortgage by failing to make and pay the installment of principal and interest despite due demand therefor. Said default has continued for more than fifteen (15) days after the due date thereof.

5. By reason of the aforesaid, the Note holder elected to declare the unpaid principal sum of the Note and Mortgage to be immediately due and payable. In this manner, an action was commenced to foreclose the mortgage whereby Wells took possession of the Note and consequently was substituted as the Plaintiff on January 13, 2012.

6. Wells has a pending foreclosure matter in state court, being case number 2010 F. 00731. Debtor, Residential Capital, LLC is a defendant, therein, as they hold a subordinate mortgage on the Debtor's Property. Movant requests relief from stay against Residential Credit, LLC in order to proceed with its foreclosure.

7. As of August 6, 2012, the payoff balance on the first mortgage held by Movant was approximately \$118,975.47.

8. Considering Wells does not have adequate protection under §362(d) of the Code, in that the within Bankruptcy prohibits legal enforcement of the rights held by Wells as first mortgage on the Property, Wells hereby requests relief from the automatic stay pursuant to 11 U.S.C.362(d) to foreclose the mortgage it holds on the Property.

9. No prior application for the relief requested has been made.

WHEREFORE, Vericrest respectfully requests that the relief herein requested by granted in all respects.

Dated: Melville, New York
October 1, 2012

/s/ Jordan S. Katz
JORDAN S. KATZ, ESQ.